

REMARKS

Upon entry of this Amendment, claims 22-41 are pending in the present application.

Claims 1-21 have been canceled, without prejudice, and new claims 22-41 have been added. New claims 22-41 have been added to more clearly claim that which Applicant regards as his invention and not in response to, or in anticipation of, any rejection based upon the statutory requirements for patentability. New claim 22, which corresponds generally to original claim 17, has been added to more clearly claim a method of the present invention wherein a compound of the general formula (I) is reacted with a compound of the general formula (II). New claims 23-32 depend from new claim 22 and correspond generally to the subject matter of original claims 3-7, 10-11 and 18, but are dependent from new method claim 22. New claims 34-36, which depend from claim 22 either directly or indirectly, are directed to compositions which are the reaction products of methods in accordance with the present invention. New claims 38-39 are directed to compositions in accordance with the present invention which comprise a compound of the general formula (III) and a compound of the general formula (IV), *i.e.*, the reaction products of the reaction of a compound of general formula (I) and a compound of general formula (II). New claim 39 is more specifically directed to those embodiments of the present invention where additional or, in the case of methods according to the present invention, unreacted compound of general formula (II) is also present in the composition. New claim 40 is directed to methods in accordance with the present invention wherein the water solubility of a compound of the general formula (III) is improved by adding a compound of the general formula (IV), and corresponds generally to original claim 2. New claim 41 is directed to kits comprising a receptacle containing a compound of general formula (I) and a receptacle containing a compound of general formula (II) which may be used for carrying out methods in accordance with the present invention and/or preparing compositions in accordance with the present invention. New claim 41 corresponds generally to original claim 20.

New claims 22-41 are no narrower in scope than original claims 1-21. Support for new claims 22-41 can be found in the original claims and throughout the Specification and in the Examples. No new matter has been added by the amendments made herein. No additional

claims fees necessitated by the amendments made herein. A complete listing of all claims ever presented in accordance with 37 C.F.R. §1.121(c) is set forth herein. Accordingly, entry of the amendments made herein is proper and respectfully requested.

The Restriction Requirement

In the Office Action, the Examiner indicated that original claims 1-21 were subject to both a Restriction and Species Election Requirement. In the Office Action, the Examiner set forth seven different groups of claims corresponding to seven allegedly distinct inventions. Additionally, within each distinct invention, the Examiner further required the election of a particular species from among all species disclosed in the present application.

The seven groups identified by the Examiner in the Office Action are as follows: Group I, including original claims 1 and 3-16, drawn to compositions, allegedly classified in class 514/548; Group II, including original claims 2 and 3-16, drawn to compositions, allegedly classified in class 514/548; Group III, including original claims 1-16, also drawn to compositions, allegedly classified in class 514/540/546/548, with various subclasses; Group IV, including original claims 17-18, drawn to processes for making compositions according to the present invention, allegedly classified in class 514/548 with various subclasses; Group V, including original claim 19, drawn to processes of making compositions in accordance with the present invention, allegedly classified in class 514/548 with various subclasses; Group VI, including original claim 20, drawn to a kit comprising reactants for use in processes according to the present invention, allegedly classified in class 514 with various subclasses; and Group VII, including original claim 21, also drawn to a kit containing composition ingredients in accordance with the present invention, allegedly classified in class 514 with various subclasses.

While not agreeing in any way with the Examiner's Requirement for Restriction or the Requirement for an Election of a particular species, and for no reason related to the statutory requirements of patentability, but rather solely for the purposes of clarity, Applicant has canceled original claims 1-21 and has added new claims 22-41 to more accurately and clearly present that which he believes to be his invention. Accordingly, the Examiner's Restriction

Requirement and Species Election Requirement as set forth in the Office Action, are rendered moot.

However, in the event that the Examiner chooses to apply similar requirements to the newly presented claims, Applicant provisionally traverses such potential requirements, as they may be applied to new claims 22-41. Additionally, Applicant has attempted to categorize new claims 22-41 according to the groups identified by the Examiner in the Office Action, and has set forth a provisional election in the event a similar requirement is applied to new claims 22-41.

Provisional Traversal of Potential Restriction and/or Species Election Requirements

In the Office Action, the Examiner required restriction between, among other groups, the compositions of claims 1-16 and identified three separate inventions (Groups I-III) wherein the distinction identified by the Examiner concerned the definition of the variable B or B' in the formulas recited in those claims. Applicant respectfully submits that the original *restriction* requirement requiring the election of a single invention from groups I, II and III identified only three separate species, not independent inventions, and thus is improper, and that the application of such a rationale to the claimed invention as set forth in the newly added claims would be improper as well. Groups I, II and III identified by the Examiner were all directed to related compositions, not independent inventions of separate classes. In fact, the Examiner's own alleged classification of the allegedly separate groups indicates their relatedness. New claims 33-36 and 38-39 have been added and are directed to compositions in accordance with the present invention. New claim 37 corresponds generally to original claim 16 which was originally grouped by the Examiner with claims 1-15.

In the Office Action, the Examiner had grouped claims 17 and 18, and claim 19 into groups IV and V, respectively. Original claims 17-19 were drawn to processes of making compositions in accordance with the present invention, as were embodied in original claims 1 and 2. New claims 22-32 and 40 have been added in place of original claims 17-19 and are also drawn to processes of making compositions in accordance with the present invention.

Claim 22 generally corresponds to original claim 17. New claims 23-32 depend from claim 22 are properly grouped with claim 22 for examination purposes. New claims 33-36 and 38-39 are directed to compositions in accordance with the present invention and are properly grouped together for examination purposes. New claims 33-36 depend from claims 22, 30 and 31, respectively, and are the reaction products of the reactions set forth in said claims.

While Applicant acknowledges that a composition of claim 33 (a product-by-process claim examined on the basis of the resulting product, not the process parameters set forth therein) could be made by a process that is arguably materially different than the process set forth in claim 22, it is hard to imagine that a search for the subject matter of method claims 22-32 would not cover the reaction products thereof (*i.e.*, the subject matter of claims 33-36), and *vice versa*. Thus, grouping claims 22-32 and claims 33-36 together for examination presents no additional burden on the Examiner and the claims ought not be restricted. Moreover, given that new claims 38-39 also claim compositions according to the present invention in regular composition claim format, these claims ought to be examined together with claims 33-36 as well. Claim 38 is directed to compositions which comprise a mixture of a compound of general formula (III) and a compound of general formula (IV). *The reaction products of a reaction of a compound of general formula (I) and a compound of general formula (II), i.e., the subject matter of claim 22, include a compound of general formula (III) and a compound of general formula (IV).*

Accordingly, restriction between any of claims 22-39 for examination on the merits is unnecessary and improper. Moreover, Applicant respectfully submits that any *restriction* among claims 22-39 based upon the identity of a particular substituent in any one of the formulas, or based upon any other rationale advanced by the Examiner in the Office Action is improper. In the event the Examiner were to continue to require an election of a particular species, Applicant respectfully traverses such a potential requirement as well for the reasons that follow.

The compounds of the general formula III are salts of a ruthenate complex and a basic nitrogen-containing heterocycle counter-ion. The compounds of general formulae I and II are alkali metal or ammonia salts of a ruthenate complex and salts of a basic nitrogen-containing

heterocycle, respectively. The substituents of the compounds recited in the present claims include those represented by the variable "X", the variable "B" and "B'", water, hydroxide and oxygen. X may represent a halide, pseudo-halide, carbonate or carboxylate. Applicant respectfully submits that this class of substituents is not so large as to render a search covering such salts so onerous on the Examiner that a species election is proper. B represents a cyclic group containing one or more nitrogen atoms. While there are many cyclic moieties that contain one or more nitrogen atoms, Applicant respectfully submits that the stated structural similarity, namely that of being cyclic and containing a nitrogen atom, does not warrant the election of a particular species for examination purposes. B' similarly represents a basic heterocycle having one more nitrogen atoms.

Accordingly, Applicant respectfully submits that a proper search for the subject matter of the present invention absent the election of a specifically disclosed species would not be so onerous as to substantiate the Examiner's requirement for the election of a single species.

New claim 40, which corresponds generally to original claim 2, is directed to methods according to the present invention wherein the water-solubility of a compound of the general formula (III), which can be a reaction product of the methods set forth in claims 22-32, is improved by adding a compound of the general formula (IV). While compounds of the general formula (III) can be prepared by other methods, the subject matter of claim 40 is not so unrelated to the subject matter of claims 22-39 that any additional search burden would be placed upon the Examiner.

In the Office Action, the Examiner had also separately grouped claims 20 and 21 as groups VI and VII as being drawn to products containing various components for preparing compositions in accordance with the invention. New claim 41 which is directed to kits in accordance with the present invention, does not require restriction. The kits embodied in new claim 41 include receptacles containing reactants for preparing compositions in accordance with the present invention. More particularly, the receptacles contain a compound of general formula (I) and a compound of general formula (II). In other words, the claimed reactants in method claim 22. Accordingly, Applicant respectfully submits that a search of the subject matter of new claim 41 would not entail a search any more burdensome or broader than the search necessitated

by the examination of new claims 22-32 or 33-39, directed to the methods of the present invention and compositions of the present invention, respectively.

Accordingly, Applicant submits that new claims 22-41 should not be subject to restriction or a species election requirement, and are properly grouped together for examination purposes.

Provisional Election with Traverse

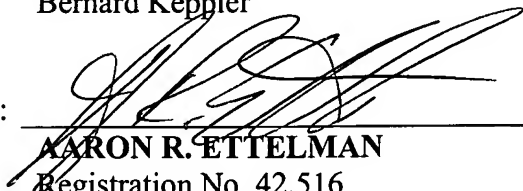
In the event the Examiner is not convinced by the remarks set forth above that new claims 22-41 ought to be grouped together for examination purposes, for the purposes of fulfilling a complete response to the Office Action, Applicant provisionally elects, with traverse, the group including claims 22-39. Alternatively, if the Examiner insists upon further restriction, Applicant provisionally elects, with traverse, the group directed to the compositions of the present invention, including claims 33-39. Furthermore, in the event the Examiner is inclined to maintain a species election requirement, again for the purposes of a complete reply to the Office Action, Applicant provisionally elects, with traverse, the species wherein X represents a halogen and both B and B' represent an indazol group. With respect to the provisional species election, Applicant submits that new claims 22, 33, 38 and 40-41 are generic to all disclosed species and that new claims 22-41 read on the elected species.

Respectfully submitted,

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